



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R1–ES–2019–N157; FXES11140100000–201–FF01E00000]

Record of Decision for the Final Environmental Impact Statement for Amending the 1997 Washington State Trust Lands Habitat Conservation Plan to include a Marbled Murrelet Long-Term Conservation Strategy

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a record of decision and habitat conservation plan

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a record of decision (ROD) for the proposed issuance of an Endangered Species Act incidental take permit (ITP) addressing the Washington Department of Natural Resources (WDNR) 1997 State Trust Lands Habitat Conservation Plan (HCP), as amended to include a Long-Term Conservation Strategy for the federally threatened marbled murrelet. The ROD documents the Service’s decision to select Alternative H, the Proposed Action (described below), which includes approval of the amended HCP, and issuance of an amended ITP authorizing incidental take of the marbled murrelet that is reasonably certain to occur with implementation of the amended HCP.

ADDRESSES: You may obtain copies of the documents by any of the following methods:

- *Internet:* <https://www.fws.gov/wafwo/> or www.dnr.wa.gov/non-project-actions.
- *Upon Request:* You may call Tim Romanski of the Service at 360–753–5823 or Heidi Tate of WDNR at 360–902–1662 to request alternative formats of the

documents, or to make an appointment to inspect the documents during normal business hours at the U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Dr. SE, Suite 102, Lacey, WA 98503 or the Washington Department of Natural Resources, SEPA Center, 1111 Washington Street, Olympia, WA 98504–7015.

FOR FURTHER INFORMATION CONTACT: Tim Romanski, by mail at U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office (see ADDRESSES), by email at Tim_Romanski@fws.gov, or by phone at 360–753–5823. Hearing or speech impaired individuals may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

We, the U.S. Fish and Wildlife Service (Service), announce the availability of a record of decision (ROD) for the proposed issuance of an amended Endangered Species Act (ESA) incidental take permit (ITP) to the Washington Department of Natural Resources (WDNR) for the 1997 State Trust Lands Habitat Conservation Plan (HCP) as amended to include a Long-Term Conservation Strategy (LTCS) for the federally listed marbled murrelet (murrelet). The ROD documents the Service’s decision to select Alternative H, the Proposed Action (described below), which includes implementation of the HCP as amended to include the LTCS, and issuance of the amended ITP authorizing incidental take of the federally threatened marbled murrelet in conjunction with implementation of the HCP.

We are advising the public of the availability of the ROD, developed in compliance with the National Environmental Policy Act of 1969, as amended (NEPA). All alternatives have been described in detail, evaluated, and analyzed in our final

environmental impact statement (FEIS). A notice of availability of the FEIS and HCP Amendment was published in the *Federal Register* on September 27, 2019 (84 FR 51172).

Background

The marbled murrelet, a seabird, was listed as threatened in 1992 under the ESA. In 1996, the WDNR released its draft HCP covering multiple fish and wildlife species (including the marbled murrelet), and forest management activities on 1.9 million acres (ac) of forested State Trust lands within the range of the northern spotted owl in Washington.

On January 30, 1997, the Service issued an ITP (Permit No. 812521) to WDNR covering implementation of the WDNR HCP. The Service's ITP decision and the availability of related decision documents were announced in the *Federal Register* on February 27, 1997 (62 FR 8980). Among other conservation strategies, the 1997 WDNR HCP committed the WDNR to developing a LTCS for the murrelet. However, at the time the HCP was being developed, the Service and WDNR determined that incorporating a LTCS for the murrelet into the 1997 HCP was not possible because of the lack of scientific information about the murrelet in relation to State Trust lands. This HCP Amendment incorporates the LTCS into the HCP.

Purpose and Need

Under the proposed action, the Service's purposes are to ensure that ESA permit issuance criteria are met, the permit amendment complies with all other applicable Federal laws and regulations, the permit amendment is consistent with the Service's legal authorities, and the ITP and implementation of the HCP Amendment achieve long-term

species and ecosystem conservation objectives at ecologically appropriate scales. The need is to fulfill our legal obligations under section 10(a)(1)(B) of the ESA in response to WDNR's request to the Service to amend the ITP.

Any ITP issued by the Service must meet all applicable issuance criteria and implementation should be technically and economically feasible (see 16 U.S.C. 1539(a)(2)(B); 43 CFR 46.420(b)). ITP issuance criteria under the ESA include the requirements that the applicant will minimize and mitigate the impacts of the taking on covered species to the maximum extent practicable, and the taking will not appreciably reduce the likelihood of survival and recovery of the covered species in the wild.

Alternatives

The FEIS analyzed the environmental impacts of the no action alternative, and the following seven action alternatives related to the issuance of an amended ITP and implementation of the WDNR HCP, as amended. In general, the alternatives varied in the amount, location, and configuration of forest habitat designated to support long-term conservation of the murrelet; the amount of forest habitat that would be released for harvest over the remaining term of the amended ITP; and the amount of authorized marbled murrelet incidental take. Each alternative uses habitat as a surrogate to express the anticipated level of take of the marbled murrelet.

Under all of the action alternatives analyzed in the FEIS, the combination of lands that provide for marbled murrelet conservation through existing WDNR policies (for example, protection of riparian zones), plus marbled murrelet-specific conservation areas, provide a network of long-term forest cover for the marbled murrelet on WDNR-managed lands. Long-term forest cover means lands on which WDNR maintains and

grows forest cover for conservation purposes, including for the marbled murrelet, through the life of the 1997 HCP. A variety of management and land use activities occur on DNR-managed forestlands, including lands within long-term forest cover. Some of these activities have the potential to negatively impact the marbled murrelet or its habitat. The effects of these activities, along with impact avoidance, minimization, and mitigation measures, are described in the FEIS.

No Action—Alternative A

Inclusion of a No Action alternative in the FEIS is consistent with the regulations implementing NEPA at 40 CFR 1502.14(d). Under the No Action alternative (analyzed as Alternative A in the FEIS), the Service would not amend the existing ITP, would not authorize take above that currently specified on the ITP, and the WDNR would not implement the additional conservation measures proposed for the murrelet under the LTCS. Under the No Action alternative, WDNR would continue operations as authorized under the Interim Strategy and described in the 1997 HCP for all of the west-side planning units.

Alternative B

Under this alternative, WDNR would manage their lands to support approximately 576,000 ac of long-term forest cover. Alternative B focuses exclusively on conserving known murrelet-occupied sites on WDNR-managed lands. This alternative is the only alternative that does not provide buffers around murrelet-occupied sites. Under this alternative, harvest and thinning would be prohibited within murrelet-occupied sites. Alternative B would conserve 59,000 ac of occupied sites. Under this alternative, approximately 39,293 ac of low-quality murrelet habitat and 5,754 ac of high-quality murrelet habitat would be released for harvest.

Alternative C

Under this alternative, WDNR would manage their lands to support approximately 617,000 ac of long-term forest cover. This alternative conserves 59,000 ac of known occupied murrelet sites, murrelet emphasis areas, and other high-quality habitat. This alternative also applies a 328-ft (100-m) buffer around all known murrelet-occupied sites except on the Olympic Experimental State Forest, where the buffer would be 164 feet (50 m) for occupied sites greater than 200 ac. Under this alternative, approximately 32,608 ac of low-quality murrelet habitat would be released for harvest.

Alternative D

Under this alternative, WDNR would manage their lands to support approximately 618,000 ac of long-term forest cover. Alternative D would protect 59,000 ac of murrelet-occupied sites in addition to occupied site buffers, and special habitat areas. This alternative also applies a 328-ft (100-m) buffer around all known occupied sites. Under this alternative, approximately 33,178 ac of low-quality murrelet habitat and 5,090 ac of high-quality murrelet habitat would be released for harvest.

Alternative E

Under this alternative, WDNR would manage their lands to support approximately 621,000 ac of long-term forest cover. Alternative E combines the conservation approaches described in alternatives C and D. Alternative E would protect 59,000 ac of murrelet-occupied sites in addition to occupied site buffers, emphasis areas, special habitat areas, and high-quality murrelet habitat. Under this alternative, approximately 31,600 ac of low-quality murrelet habitat would be released for harvest.

Alternative F

Under this alternative, WDNR would manage their lands to support approximately 743,000 ac of long-term forest cover. This alternative conserves murrelet management areas identified in a Science Team Report, as described further in the FEIS, that would be established in the North and South Puget planning units. Additionally, under this alternative, all northern spotted owl old forest habitat (as defined in the 1997 HCP) in the Olympic Experimental State Forest (OESF) planning unit would be subject to a 328-ft (100-m) buffer. Existing, mapped, low-quality northern spotted owl nesting/roosting/foraging, and dispersal habitat in designated spotted owl conservation areas and in the OESF are included as long-term forest cover. Alternative F would also protect 59,000 ac of murrelet-occupied sites in addition to occupied site buffers. Under this alternative, approximately 19,307 ac of low-quality marbled murrelet habitat and 2,697 ac of high-quality marbled murrelet habitat will be released for harvest. Pursuant to NEPA implementing regulations found at 40 C.F.R. 15.2(b), the Service identified Alternative F as the environmentally preferable alternative in the ROD.

Alternative G

Under this alternative, WDNR would manage their lands to support approximately 642,000 ac of long-term forest cover. This alternative applies 328-ft (100-m) buffers around all known murrelet-occupied sites. Alternative G would protect 59,000 ac of murrelet-occupied sites in addition to occupied site buffers, emphasis areas, special habitat areas, priority areas identified by the Washington Department of Fish and Wildlife, and murrelet management areas. Under this alternative, approximately 23,619 ac of low-quality murrelet habitat will be released for harvest.

Alternative H – Proposed Action

Under this alternative, WDNR would manage their lands to support approximately 604,000 ac of long-term forest cover. Alternative H would protect 59,000 ac of murrelet-occupied sites and special habitat areas as well as delay the harvest of 5,000 adjusted ac in order to achieve “no net loss” of adjusted acres of habitat, as described in the FEIS and HCP Amendment. Alternative H also applies 328-ft (100-m) buffers around all known murrelet-occupied sites. Under this alternative, approximately 33,030 ac of low-quality marbled murrelet habitat and 5,017 ac of high-quality marbled murrelet habitat will be released for harvest. The proposed HCP Amendment is best represented by Alternative H. Both the Service and WDNR identified Alternative H as their respective preferred alternative in the FEIS.

Decision and Rationale for Decision

Based on our review of the alternatives and their environmental consequences as described in the FEIS, we have selected the Proposed Action (Alternative H). The Proposed Action includes WDNR’s implementation of the 1997 HCP, as amended to include the LTCS, and the Service’s issuance of an amended ITP authorizing incidental take of the covered species that may occur as a result of WDNR forest land management activities which are undertaken in accordance with the amended HCP and the ITP terms and conditions.

In order to issue an ITP for covered species under the ESA, we must determine that the HCP meets the issuance criteria set forth in Section 10 of the ESA (16 U.S.C. 1539(a)(2)(B)). As discussed in the ROD, the Service has made the determination that the WDNR HCP, as amended, meets the ESA section 10 permit issuance criteria.

Authority

We provide this notice in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6; 40 CFR 1506.10; 43 CFR part 46).

Robyn Thorson,

Regional Director,

U.S. Fish and Wildlife Service.

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